



PATENT

Attorney Docket No. 7372/70913

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Cue
1/23/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

USUI et al.

Application No.: 09/778,036

Filed: February 7, 2001

Art Unit: 1771

Examiner: Hai Vo

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TC 1700

For: FOAMED THERMOPLASTIC RESIN ARTICLE

January 16, 2003

RESPONSE

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Applicants respectfully request reconsideration followed by allowance.

Applicants enclose a translation of their priority application.

U.S. Patent No. 6,124,025 to Kitayama is not prior art.[?] Accordingly, the rejection of claims 1-6 as obvious over this document should be reconsidered and withdrawn.

Claims 1-6 define novel and unobvious inventions over JP 6-344362.

The Office Action recognizes that the JP '362 reference "is silent as to the dissimilar thickness of the solidification layers."

Applicants direct the Examiner's attention to their present specification at page 1, line 16 through page 2, line 23. In this reference, a composite foamed article such as that shown in Figure 7 is disclosed. As described in paragraph [0045], the composite foamed article shown in Figure 7 comprises a foamed substrate layer 14 comprising a solidified layers 11, 11 and a foamed layer 13, and a skin material 8. In this reference, there is no particular description about the relation between the thickness of the two solidified layers. On the other hand, this reference contains only two Examples in which the relation of the thickness of the two solidified layers is mentioned. In Example 1, both solidified layers have the same thickness, namely 0.4 mm (see paragraph [0060]). In Comparative Example 2, both solidified layers have the same thickness, namely 1.1 mm (see paragraph [0067]). Thus, this reference only

discloses and teaches a composite foamed article comprising a skin material 8 and a foamed substrate layer 13 sandwiched by two solidified layers 11, 11 having the same thickness and does not suggest solidified layers with dissimilar thickness in spite of the Examiner's assertion.

According, the reference does not provide motivation to an ordinarily skilled worker to isolate a particular result-effective variable. Absent of such teaching, and absent such a disclosure, relying on allegations of "optimization" or the like, even if predicated on the now old *In re Aller* decision are inapposite.

Claims 1-6 are accordingly novel and unobvious over JP '362.

Claims 1-6 define novel and unobvious inventions over the Ozeki et al. reference, U.S. Patent No. 6,080,469.

It is not seen where the cited prior art would have motivated an ordinarily skilled worker towards the present claimed invention. The shortcomings in the Ozeki et al. reference are described below.

First, the foamed core layer and the two skin layers are made of the same thermoplastic resin. The specification of the present application does not contain a description about an embodiment where the foamed core layer and the skin layers are made of different resins. On the other hand, in the Ozeki et al. reference, the foam core layer, the film layer (P) and the film layer (S) are made of different materials. Specifically, as described in claim 1, the foam core layer comprises a modified polyphenylene ether resin (I), the film layer (P) comprises a modified polyphenylene ether resin (II), and the film layer (S) comprises a polystyrene resin (III). Even if the foam core layer and the film layer (P) comprise the same resin (modified polyphenylene ether resin), the film layer (S) comprises a resin (polystyrene resin) different than that of the foamed core layer and the film layer (P). Therefore, Ozeki et al. reference does not teach a foamed thermoplastic resin article including a thermoplastic foamed base material composed of a foamed core layer and two skin layers comprising the same material.

Second, the Examiner asserts that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the film layer (P) thinner than the film layer (A) motivated by the desire to provide impart the strength and tensile resistance of

the foam. However, the Examiner provides no evidence supporting that assertion. The cited reference nowhere discloses, suggests or teaches such a modification.

Applicants respectfully point out the Examiner has not supplied an Examiner's Affidavit or Declaration supplying facts not found in the recited reference.

Applicants therefore earnestly but respectfully submit that the rejections should be withdrawn.

Lastly, Applicants respectfully traverse the rejections of claims 1 and 3-6 as obvious over the Lindermann et al. reference, U.S. Patent No. 5,462,794. The cited Lindermann et al. reference does not disclose, describe, teach or suggest the necessary modifications to arrive at the present claimed inventions.

The Lindermann et al. reference does not teach a foam thermoplastic resin article having a thermoplastic foam base material composed of a foam core layer and two skin layers that may comprise the same material. Indeed, the Lindermann et al. reference discloses a foam multilayer sheet comprise of a foam core layer 13, an outer multi-resin layer 14, an inner multi-resin layer 12 and a barrier layer 11 provided on the inner layer (see Fig. 1), in which, for instance, the foam core layer is made of a polystyrene and the inner and outer multi-resin layers are made of a thermoplastic material containing a polystyrene, a polyolefin and an EVOH barrier resin, as seen from column 7, at lines 25-41.

Applicants respectfully note that the facts missing from the cited reference are not otherwise in this record. In particular, there is no Examiner's affidavit or Declaration of record supplying the missing facts.

Please acknowledge the Power of Attorney from Assignee filed herein on or about July 31, 2002. Please direct all PTO communications to the undersigned.

Having addressed all matters, Applicants respectfully request that this case merits a Notice of Allowance.

Respectfully submitted,

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Enclosure: Translation of Priority Application